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Attorneys for Plaintiff,
AT&T CORPORATION

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, NORTHERN DIVISION

AT&T CORPORATION,

Plaintiff,

v.

DATAWAY INC. and dba DATAWAY
DESIGNS,

Defendants.

Case No. C07-02440 MMC

DECLARATION OF TIMOTHY CARL
AIRES RE: EXPLANATION FOR
FAILURE TO FILE MOTION FOR
DEFAULT JUDGMENT

[F.R.C.P., Rule 55]

S/C DATE: November 9, 2007
TIME: 10:30 a.m.
CTRM: 7

Plaintiff AT&T Corporation, hereby submits the Declaration of Timothy Carl Aires
Re: Explanation for Failure to File Motion for Default Judgment, as follows:

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DECLARATION OF TIMOTHY CARL AIRES

I, TIMOTHY CARL AIRES, hereby declare and state as follows:

1. The following facts are of my own personal, first-hand knowledge, and if called and sworn to testify thereto, I could and would competently do so.

2. I am an attorney at law, duly licensed to practice before all courts of the State of California and am a member of the Aires Law Firm, counsel for Plaintiff AT&T Corporation.

3. Defendant Dataway Inc. and dba Dataway Designs has filed a motion for relief from default which is set to be heard on October 12, 2007. I expect the motion to be granted. As such, I have not filed a motion for default judgment so as to avoid the undue consumption of resources.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 2nd day of October, 2007, in Newport Beach, California.


TIMOTHY CARL AIRES

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I, Timothy Carl Aires, am employed in the aforesaid county, State of California; I am over the age of eighteen years and not a party to the within action; my business address is: 180 Newport Center Drive, Suite 260, Newport Beach, California 92660.

On October 2, 2007, I served the document entitled: *Declaration of Timothy Carl Aires Re: Explanation for Failure to File Motion for Default Judgment* on all interested parties in this action by placing a true and correct copy thereof, enclosed in a sealed envelope, addressed as follows:

Matlock Law Group (matlocklawgroup@sbcglobal.com)
Anne-Leith W. Matlock, Esq.
Guy D. Chism, Esq.
961 Ygnacio Valley Road
Walnut Creek, CA 94596

(check applicable paragraphs)

☒ (BY MAIL IN THE ORDINARY COURSE OF BUSINESS) I am readily familiar with the business practice for collection and processing of correspondence for mailing with the U.S. Postal Service and the fact that correspondence would be deposited with the U.S. Postal Service that same day in the ordinary course of business; On this date, the above-named correspondence was placed for deposit at Newport Beach, CA and placed for collection and mailing following ordinary business practices.

☐ (BY PERSONAL SERVICE) I caused such document to be served by hand on the addressee.

☐ (BY EXPRESS SERVICE) I caused such document to be deposited in a box or other facility regularly maintained by the express service carrier or delivered to an authorized courier or driver authorized by the express service carrier to receive documents, in an envelope or package designated by the express service carrier with delivery fees paid or provided for, addressed to the person on whom it is to be served.

☐ (State) I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☒ (Federal) I declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on October 2, 2007


Signature of Declarant